GOVERNMENT OF MYSORE

Legislative Department. 514

NOTIFICATION.

No. L. D. 2304—Legis. 3-51-44, dated Bangalore, 8th March 1952.

Ordered that the Code of Criminal Procedure (Amendment) Bill, 1952 (Central Bill No. 21 of 1952) published in the *Gazette of India*, Part II, Section 2, dated the 23rd February 1952 be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Legal Remembrancer and
Secretary to Government,
Law Department.

BILL No. 21 OF 1952.

A Bill further to amend the Code of Criminal Procedure, 1898.

BE it enacted by Parliament as follows :—

1. **Short title.**—This Act may be called the Code of Criminal Procedure (Amendment) Act, 1952.)

2. **Substitution of new section for section 527 in Act V of 1893.**—For section 527 of the Code of Criminal Procedure, 1898, the following section shall be substituted, namely :—

"527. *Power of Supreme Court to transfer cases and appeals.*—(1) Whenever it is made to appear to the Supreme Court that an order under this section is expedient for the ends of justice, it may direct that any particular case or appeal be transferred from one High Court to another High Court or from a Criminal Court subordinate to one High Court to another criminal court of equal or superior jurisdiction subordinate to another High Court.

(2) The Supreme Court may act under this section only on the application of the Attorney-General of India or of a party interested, and every such application shall be made by motion which shall, except when the applicant is the Attorney-General of India or the Advocate-General, be supported by affidavit or affirmation.

(3) The court to which any case or appeal is transferred under this section shall deal with the same as if it had been originally instituted in, or presented to, such court.

(4) Where any application for the exercise of the powers conferred by this section is dismissed, the Supreme Court may, if it is of opinion that the application was frivolous or vexatious, order the applicant to pay by way of compensation to any person who has opposed the application such sum not exceeding one thousand rupees as it may consider appropriate in the circumstances of the case."

STATEMENT OF OBJECTS AND REASONS

Section 527 of the Code of Criminal Procedure, 1898, before it was adapted under the Government of India (Adaptation of Indian Laws) Order, 1937, gave authority to the Governor-General in Council to direct the transfer of any particular case or appeal from one High Court to another High Court or from one criminal court subordinate to one High Court to another criminal court of equal or superior jurisdiction subordinate to another High Court, whenever it appeared to him that such transfer would promote the ends of justice or tend to the general convenience of parties or witnesses. The aforesaid Order of 1937, however, replaced the words "Governor-General in Council" by the words "Provincial Government" in view of the constitutional position under the Government of India Act, 1935, with respect to the exercise of executive authority in the concurrent field. Consequently, the Central Government lost the authority to transfer cases or appeal from one State to another and such transfers were made subject to the concurrence of both the State Governments concerned. The question whether this power to transfer cases from one State to another State should not be recentralised was raised in Parliament last year. It has now been further examined in consultation with the Supreme Court and the State Governments, and as a result it is proposed that the power should be vested in the Supreme Court instead of in the State Governments. The Bill seeks to achieve this purpose.

KAILAS NATH KATJU.

NEW DELHI;
The 12th February, 1952.